

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

Commencement Information

II Sch. 9 para. 14 in force at 13.7.2022, see [art. 1](#)

15. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003;

“the code rights” has the same meaning as in paragraph 3 of the electronic communications code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 (electronic communications, networks and services) of Part 2 (networks, services and the radio spectrum) **(1)** of the 2003 Act;

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 of that code; and

“operator” means the operator of an electronic communications code network.

(1) See section 106 of the 2003 Act, which was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30). See also Schedule 3A to the 2003 Act, which was inserted by section 4 of, and Schedule 1 to, the Digital Economy Act 2017.

Changes to legislation: There are currently no known outstanding effects for the The A47 Blofield to North Burlingham Development Consent Order 2022, PART 2. (See end of Document for details)

Commencement Information

12 Sch. 9 para. 15 in force at 13.7.2022, see [art. 1](#)

16. The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertakers' works affecting electronic communications apparatus) of the electronic communications code.

Commencement Information

13 Sch. 9 para. 16 in force at 13.7.2022, see [art. 1](#)

17.—(1) Subject to sub-paragraphs (2) and (4), if as the result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other reasonable expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 49 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

Commencement Information

14 Sch. 9 para. 17 in force at 13.7.2022, see [art. 1](#)

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Changes to legislation: *There are currently no known outstanding effects for the The A47 Blofield to North Burlingham Development Consent Order 2022, PART 2. (See end of Document for details)*

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